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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,986	07/31/2001	Hiroshi Takayasu	JP920000214US1	3813

7590 12/07/2005

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EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/918,986

Applicant(s)

TAKAYASU ET AL.

Examiner

Tung S. Lau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/05/2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

- 2 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

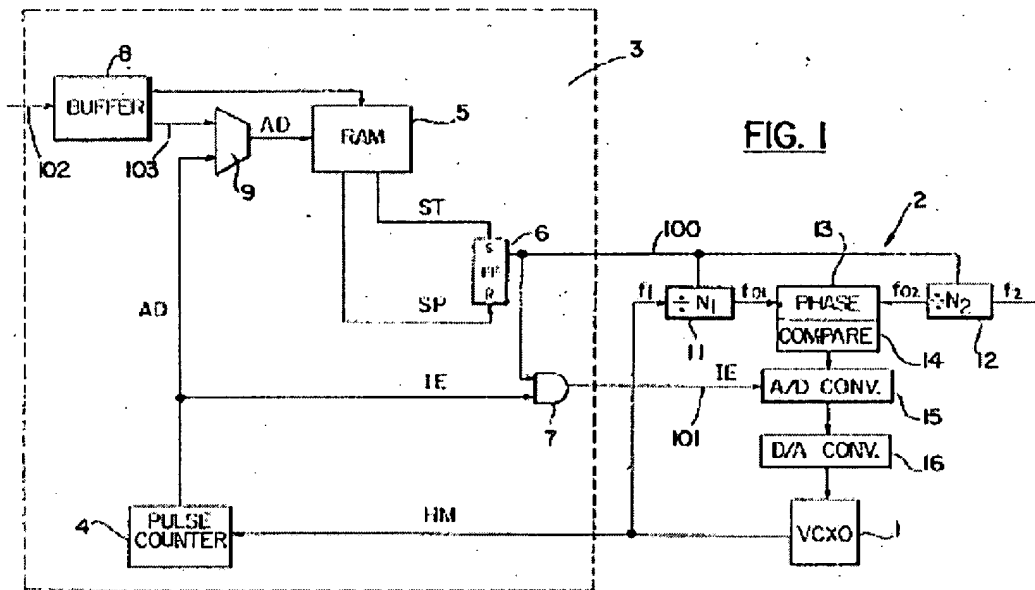
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Pennoni (U.S. Patent 4,591,730).

Regarding claim 1:

Pennoni discloses a method for determining the performance of a data processing system wherein processing is started by a first data processing device and finished by a second data processing device which may have separate clocks that are not synchronize (Col. 1, Lines 13-50), the method by a logging device (fig. 1, unit 2), receiving a first notification when processing is started by the first data processing device (Col. 3, Lines 5-30, fig. 2, unit C),

wherein the first notification includes input data entered when processing is started by the first data processing device; generating process start time data using a clock of the logging device (Col. 3, Lines 5-30, fig. 2, unit C), wherein the process start time data includes time of receipt by the logging device of the first notification; by the logging device (fig. 2, unit C), receiving a second notification when the processing is finished by the second data processing device (Col. 3, Lines 5-30, fig. 2, unit D), wherein the second notification includes at least part of the input data entered when processing is started by the first data processing device (fig. 2, unit C,D); generating process end time data using the clock of the logging device (Col. 3, Lines 5-30), wherein the process end time data includes time of receipt by the logging device of the second notification; and calculating processing time by comparing the process start time data and the process end time data (Col. 3-4, Lines 5-23); wherein, in the step of calculating, the process start time data and the process end time data are-associated with each other-using keywords of the input data entered when processing is started by the first data processing device (Col. 3-4, Lines 5-23, fig. 2, unit f, g, fig. 3).



Regarding claim 14:

Pennoni discloses a data processing system comprising: a first data processing device that starts processing (Col. 3-4, Lines 5-33, fig. 1, unit 3); a second data processing device for finishing processing; and a logging device (fig. 1, unit 2); wherein the logging device comprises: logic for receiving a first notification including input data *when* processing is started by the first data processing device (fig. 2, unit C); logic for generating process start time data using a clock of the logging device (Col. 3-4, Lines 5-33, fig. 2, unit C), wherein the process start time data includes time of receipt by the logging device of the first notification (fig. 2, unit C); logic for receiving a second notification including at least part of the input data when processing is finished by the second data

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processing device; logic for generating process end time data using the clock of the logging device (fig. 2, unit D), wherein the process end time data includes time of receipt by the logging device of the second notification (Col. 3-4, Lines 5-33, fig. 2, unit D); and logic for associating the process start time data and the process end time data with each other using keywords of the input data (Col. 3-4, Lines 5-23, fig. 2, unit f, g, fig. 3), and calculating processing time by comparing the process start time data and the process end time data (Col. 3-4, Lines 5-23, fig. 2, unit f, g, fig. 3).

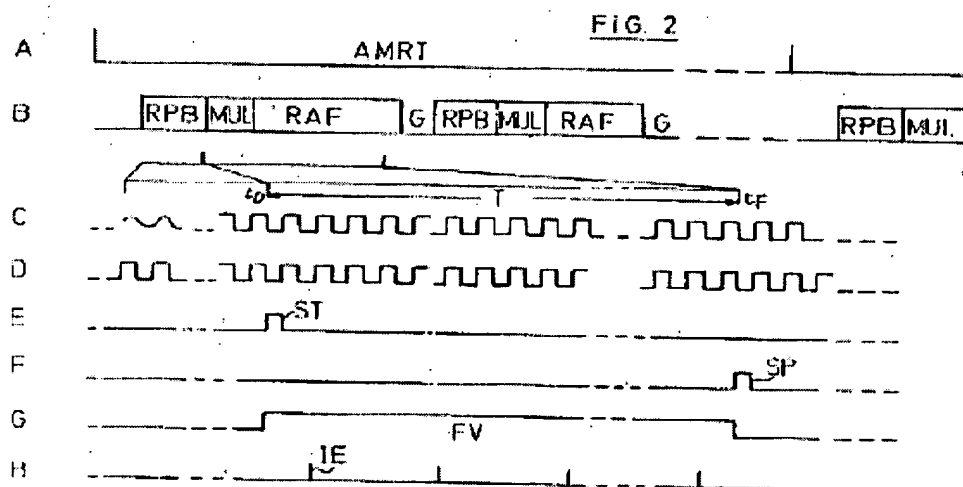
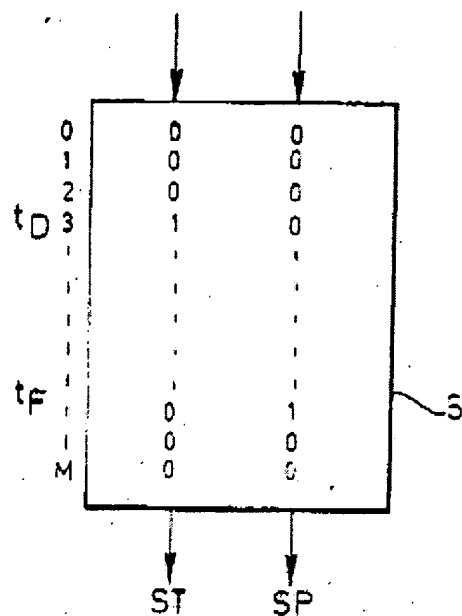


FIG. 3

Regarding claim 16:

Pennoni discloses a data logging system, comprising: logic for receiving a first notification including input data when processing is started by a first data processing device (Col. 3-4, Lines 5-33, fig. 1, unit 3); logic for generating process start time data using a clock of the logging system (fig. 2, unit c), wherein the process start time data includes time of receipt by the logging system of the first notification (fig. 2, unit c); logic for receiving a second notification including at least part of the input data when processing is finished by a second data processing device (fig. 2, unit d); logic for generating process end time data using the clock of the logging system (fig. 1, unit 3), wherein the process end time data includes time of receipt by the logging system of the second notification (fig. 2, unit d); and logic for associating the process start time

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data and the process end time data with each other using keywords of the input data, and calculating processing time by comparing the process start time data and the process end time data (Col. 3-4, Lines 5-23, fig. 2, unit f, g, fig. 3).

. Regarding claim 17:

Pennoni discloses programmable media containing programmable software for measuring the performance of a data processing system (fig. 1, unit 2) wherein processing is started by a first data processing device and finished by a second data processing device which may have separate clocks that are not synchronized (Col. 1, Lines 13-50), the programmable software comprising the steps of: receiving a first notification when processing is started by the first data processing device (fig. 2, unit C), wherein the first notification includes input data entered when processing is started by the first data processing device (Col. 3, Lines 5-30); generating process start time data using a logging clock (fig. 2, unit, c) wherein the process start time data includes time of receipt of the first notification (fig. 2, unit, c); receiving a second notification when the processing is finished by the second data processing device (fig. 2, unit, d), wherein the second notification includes at least part of the input data entered when processing is started by the first data processing device; generating process end time data using the logging clock (fig. 2, unit d), wherein the process end time data includes time of receipt of the second notification (fig. 2, unit d); and calculating processing time by comparing the process start time data and the process end time data (Col. 3-4, Lines 30-13); wherein, in the step of calculating,



the process start time data and the process end time data are associated with each other using the input data entered when processing is started by the first data processing device (Col. 3-4, Lines 30-32).

Regarding claim 2, Pennoni further discloses the first notification includes input data entered when processing is started by the first data processing device (fig. 2, unit c, fig. 1, unit 3); Regarding claim 3, Pennoni further discloses input data (fig. 2, unit c); Regarding claim 4, Pennoni further discloses start time and end time associated with each other using input data (fig. 2, unit c, d, e); Regarding claim 5, Pennoni further discloses including a recording medium (fig. 1, unit 5, 11); Regarding claim 6, Pennoni further discloses recording process start time, stop time (fig. 2, unit c, d); Regarding claim 7, Pennoni further discloses information from a second logging devices (fig. 2, unit d, fig. 1, unit 14); Regarding claim 8, Pennoni further discloses information capture on a network (Col. 2, Lines 20-50); Regarding claim 9, Pennoni further discloses start time and end time associated with each other in network (Col. 3-4, Lines 5-31); Regarding claim 10, Pennoni further discloses information capture from a network when processing is finish by the second data processing device (fig. 1, unit 14, fig. 2, unit f); Regarding claim 11, Pennoni further discloses start time and end time data associated with each other from network (fig. 2, unit c, d, e, f, Col. 3-4, Lines 20-31); Regarding claim 15, Pennoni further discloses calculating processing time by comparing the start and end time data (Col. 3-4, Lines 15-18, fig. 2, unit

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c, d, e, f); Regarding claim 13, Pennoni further discloses using user datagram protocol (fig. 2, unit c, d, e, f, g, h).

***Allowable Subject Matter***

3. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach transmitted in TCP.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL

**BRYAN BUI**  
**PRIMARY EXAMINER**

  
12/15/05